## EDWARD J. DOYLE AND MRS. EDWARD J. (BILLIE M.) DOYLE

MAY 20, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. Cretella, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany H. R. 7375]

The Committee on the Judiciary, to whom was referred the bill (H. R. 7375) for the relief of Edward J. Doyle and Mrs. Edward J. (Billie M.) Doyle, having considered the same report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 4, after the name "Doyle," insert "and Mrs. Edward J. (Billie M.) Doyle,"

Amend title so as to read:

A bill for the relief of Edward J. Doyle, and Mrs. Edward J. (Billie M.) Doyle.

The purpose of the proposed legislation is to relieve Mr. and Mrs. Doyle of all liability to refund to the United States the sum of \$2,100. Such sum represents the amount of class E allotments which were erroneously paid Mrs. Doyle for the period from September 1, 1942,

to November 30, 1945.

The Department of the Army in its report to the chairman of the committee, dated October 14, 1957, gives in detail the history of this proposed legislation and recommends favorable action be given the bill with certain amendments. Your committee, after a careful review of all evidence, concur in that recommendation and recommend favorable consideration of the bill as amended. The report is as follows:

DEPARTMENT OF THE ARMY, Washington, D. C., October 14, 1957.

Hon. EMANUEL CELLER, Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of the Army for the views of the Department of the Army with respect to H. R. 7375, 85th Congress, a bill for the relief of Edward J. Doyle, of Manistique, Mich.

This bill provides as follows:

"That the Comptroller General of the United States is hereby authorized and directed to relieve Edward J. Doyle, of Manistique, Michigan, of all liability to refund the sum of \$2,100. Such sum represents the amount of class E allotments which were erroneously paid his wife Billie M. Doyle for the period from September 1, 1942, to November 30, 1945."

The Department of the Army favors the enactment of the abovementioned bill, but recommends that it be amended as hereinafter

Records of the Department of the Army show that Edward Jerome Doyle was born on May 1, 1920. He enlisted in the National Guard of the United States on March 13, 1939, and was called to active duty with the Army on October 15, 1940, in the grade of private. On June 30, 1942, he was discharged from the Army in the grade of master sergeant, in order to accept an appointment as a warrant officer, junior grade, Army of the United States. He served as a warrant officer from July 1, 1942, until September 25, 1944, when he was discharged in order to accept an appointment as a second lieutenant, Army of the United States. He served as a second lieutenant until March 31, 1945, when he was promoted to first lieutenant. He was separated from active duty with the Army on December 14, 1945. Lieutenant Doyle's commission in the Army of the United States terminated, by law, on July 1, 1948 (35 Comp. Gen. 191 (1955)). He now holds a commission as a captain in the National Guard of the United States (State of Michigan).

On March 1, 1942, while Captain Doyle was serving in the Army as an enlisted man, he authorized an allotment of \$100 per month to his wife, Mrs. Edward J. (Billie M.) Doyle. This allotment was automatically terminated in accordance with Army regulations when Captain Doyle was discharged from the Army on June 30, 1942, in order to accept an appointment as a warrant officer junior grade (subpar. 12 (a) (6) Army Regulations No. 35-5520, dated March 4, 1941). Captain Doyle then authorized a new allotment of \$100 per month to his wife, effective July 1, 1942. He discontinued this allotment effective August 31, 1942, and authorized a new allotment of \$175 per month to his wife, effective September 1, 1942, which continued until May 31, 1944. The General Accounting Office has advised that through administrative error the allotment of August 31, 1942, continued to be paid until November 30, 1945, when it was terminated due to Captain Doyle's release from active duty.

Captain Doyle did not become aware of the fact of the erroneous payment of the discontinued allotment of August 31, 1942, until his return home on leave prior to his separation from the Army. At that time, he found 2 of the \$100 allotment checks for October and November 1945, in the house. He immediately wrote to the local office of Dependency Benefits, returning the two uncashed checks. He later wrote again, returning another check which had been received, and requesting information as to the amount which he owed due to the erroneous payment of allotment checks from August 31, 1942, through November 1945. The General Accounting Office has advised that the total indebtedness incurred by Captain Doyle was \$3,900, less

\$300 for the 3 checks which he returned.

Captain Doyle immediately began making payments in an effort to reduce this indebtedness, and by November 1947, he had reduced it to \$2,100. On March 18, 1948, Captain Doyle wrote to the Office of the Chief of Finance explaining that due to his financial condition, he would be unable to make any further payments. The letter stated in part as follows:

"I was inducted into Federal service with my National Guard unit on October 15, 1940, and I embarked for Australia on April 22, 1942, with the rank of master sergeant. At that time I had in effect a class E allotment to my wife, Mrs. Edward J. (Billie M.) Doyle, in

the amount of \$100.

"On June 30, 1942, while serving with the 107th Medical Battalion, 32d Infantry Division, at Camp Woodside, South Australia, I was discharged as an enlisted man to accept, on July 1, 1942, appointment as a warrant officer, junior grade. On July 1, 1942, I went to the headquarters of my battalion where the personnel officer, 1st Lt. Donald R. Wyman, MAC, was stationed. I signed all of the papers necessary to my change of status, and also signed a document canceling the class E allotment to my wife of \$100, and signed another document authorizing a new class E allotment to my wife of \$175. To the best of my recollection, the personnel sergeant major under the direction of the personnel officer took the various documents from me as I signed them. I know that I signed a document canceling my class E allotment, and I know that I did not take it with me, but left it in the custody of the personnel officer.

"At about this time, I wrote a letter to my wife stating that I had increased the allotment because of my change of status, but, since it was not customary at that time for us to discuss financial matters in detail, I did not advise her as to the exact amount of the increase in allotment. During the remainder of my overseas service, I did not have any occasion to advise her of the amount of the new allotment.

"I returned from overseas duty on July 31, 1945, and arrived at my home on leave on August 15, 1945. On about November 15, 1945, I happened to look in a desk drawer and discovered a monthly allotment check in the amount of \$100 bearing my enlisted man's serial number. I then found that there were two such checks, each in the amount of \$100, and representing the allotments for October and November of 1945. I immediately questioned my wife about the checks and she replied that she got 2 checks every month, 1 for \$100 and 1 for \$175. The allotment for \$175 had been canceled some months previous to the date of this discovery, but my wife informed

me that the \$100 checks were still being received.

"The next day, on November 16, 1945, I returned the two uncashed checks to the Office of Dependency Benefit in Newark with a covering letter explaining what had apparently happened, namely, that the enlisted man's allotment had not been discontinued as requested. On January 4, 1946, having received no further communication except an acknowledgment of receipt of the checks and one other check subsequently forwarded, I again wrote the Office of Dependency Benefits requesting a statement of the amount owed to the Government. On February 6, 1946, the Office of Dependency Benefits wrote stating that the overpayment was \$4,100 [the correct amount of the total indebtedness has been determined to be \$3,900]. Crediting the three checks I had returned left a balance of \$3,800 [\$3,600].

"Shortly after receipt of the statement of my indebtedness, on March 8, 1946, I repaid \$400 which was a large portion of my savings. During the next 5 months' period I repaid an additional \$500 out of what remained of my savings, and out of my earnings. At that time I was going to school at night, and working for Ceco Steel Products Corp. during the day.

"On July 31, 1946, our first child was born by caesarian section, and the actual cost to me for medical and hospital expense, neither of which was insured, was approximately \$500. Accordingly, on October 1, 1946, it was necessary that I reduce my remittance to the Government to \$50. With the exception of an extra payment of \$100 made in December 1946 I made regular payments on the account of \$50 per

month through November of 1947.

"When I started to work for my present employer in April of 1946, my salary was \$175 per month. My present salary is \$240 per month; and income tax, social security, and group insurance deductions leave me a net of \$221.19. A conservative estimate of the cost of our food per month is \$100. Rent is \$42.75, gas and light \$6.25, fuel \$15, insurance \$20.54, transportation to work \$12, leaving a balance for clothing, medical expense, entertainment, and other miscellaneous items of only \$24.65, which, of course, has proven entirely inadequate. We now have 2 children whose ages are 20 months and 6 months.

"The rising cost of living and the responsibility of our two children have now completely exhausted all of my savings, and it is absolutely impossible for me to make further payments from income.

"I realize that we have received this money, and I realize that the duty of Government officials is to collect the obligation from me in any way possible. However, it is now apparent to me that I will never be able to discharge the obligation without imposing the most severe hardships upon my family. It will be futile for Government officials to continue to endeavor to collect the indebtedness, and their collection efforts will result in only a waste of funds.

"In view of the circumstances under which the indebtedness arose, in view of my prompt restitution to the full extent of my ability and in view of my present and future inability to make further repayment, it is earnestly requested that the balance of the obligation, amounting to approximately 50 percent of the original amount, be canceled by the Comptroller General or by the Congress on the ground that in justice and equity I should not be compelled to repay any further

amount.

"Through no fault of ours, but rather because of the Government's omission to cancel the prior allotment, my wife was given the impression that our income was \$100 greater than it actually was. Quite justifiably, she increased her standard of living accordingly. Because of that mistake by the Government we have, since discovery of the mistake, paid to the Government everything we have and reduced our standard of living to a subsistence level. The cost of living has now reached the point where we cannot further reduce our standard of living, and we cannot make any further payments on the obligation. It is submitted that it is unjust and inequitable to require us to continue with this obligation against us when its existence was not caused by us, and when its eventual repayment, if it can ever be repaid, would have to extend over almost the balance of our lives."

At the present time, the total indebtedness due on this account is \$2,100. However, it appears that in view of the decision of the Comptroller General of the United States of January 27, 1954 (33 Comp. Gen. 309 (1954)), Mrs. Doyle is the sole person responsible for these overpayments. That decision points out that when an allotment is erroneously paid, without any fault on the part of the member of the Armed Forces, it is the payee who is legally liable to refund the

overpayments.

From the above facts, it is clear that neither Captain Doyle nor Mrs. Doyle were in any way responsible for the overpayments. He promptly notified the Government of the erroneous payments, returned the uncashed checks, and made every effort to liquidate the indebtedness. He exhausted his accumulated savings and incurred great hardship in his commendable effort to meet this obligation. In view of the above, the Department of the Army favors the subject bill, but recommends that it be amended to provide that Mrs. Edward J. (Billie M.) Doyle is also relieved of all liability to refund the remaining indebtedness of \$2,100. It is important to note that the subject bill does not provide that any of the payments already made will be refunded, but rather seeks to relieve the Doyles of the liability to pay the remaining indebtedness.

The cost of this bill, if enacted, will be \$2,100.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER, Secretary of the Army.